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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,932	12/12/2003	Chi Fai Ho	IPLN.P0001C	2247

7590 03/24/2011
Peter Tong
1807 Limetree Lane
Mountain View, CA 94040

EXAMINER

LEIVA, FRANK M

ART UNIT	PAPER NUMBER
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3717

MAIL DATE	DELIVERY MODE
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03/24/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/734,932

Applicant(s)

HO ET AL.

Examiner

FRANK M. LEIVA

Art Unit

3717

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 March 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 47-51,53,54,56-58,60,62-64,66 and 68.
Claim(s) withdrawn from consideration: 52,55,59,61,65 and 67.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Melba Bumgarner/
Supervisory Patent Examiner, Art Unit 3717

Continuation of 3. NOTE: The amendment to claim add new meaning to the limitation changing the scope of the claims and have not been previously considered. The examiner will need to conduct new search before the examiner is able to determine the patentability of the claimed invention.

Continuation of 11. does NOT place the application in condition for allowance because:

1) Regarding applicant's argument of improper Final Rejection; The examiner identified the US Patent 5,779,486 from the new search executed with the new limitations of adding a new rule to act in spite of the preceding rules, that is to "be applied before the one or more conflicting rules" of claim 12 of patent '486. Where the claims submitted 19 August 2010 simply stated generating another rule, it was not explicit as to the nature of the rule being NEW or non existent before the conflict. The examiner finds the argument not persuasive and the finality of the action proper.

2) Regarding applicant's argument directed to the objection to the Drawings by incorporating new matter; The examiner points to applicants specification having 5 (five) statements of a storage medium containing the rules and information of history, but never does it point to a specific location as to be in the computer; to allow the introduction of new structure into the specification would force all of the rules and user information to be stored in the computer, which the applicant has already stated is connected to a network where the information can be accessed as well as if stored in the computer. The examiner understands that all computers have inherent to operation some form of storage, but since the applicant has defined what that storage holds, it would have to be redefined as another form of memory separate from the already stated "storage medium". In any case to do so would also add new matter to the description. The examiner deems the argument not persuasive and the objection proper.

3) Regarding the specification objection; the examiner withdraws the objection to the specification in light of the amendment filed 08 March 2011.

4) Regarding the argument directed towards the Statutory Double Patenting rejection; the examiner finds persuasive and withdraws the statutory rejection.

5) Regarding the argument directed to the rejection of claims 47, 57 and 68 under 35 USC §112 1st paragraph the examiner deems persuasive and withdraws the rejection.

6) Regarding the argument directed to the rejection of claims 47-51, 53-54, 56-58, 60,62-64, 66 and 68 under 35 U.S.C §102(e); The examiner point to Table 4.2 to establish a listing of rules in storage, for which it is inherent for all computer systems to retrieve data to be used in calculating a logical algorithm. Table 4.2 simply states a list of rules available to the processor to use. Further, the teaching of "determining, based on the at least two rules, the additional materials to present to the user, after the materials accessed by the user at (a) have been presented to the user"; the examiner points to Siefert column 15 line 52; "this is the second way in which the system can assess lack of prerequisite skills", two rules have been applied, a below average score and a diagnostic check re-evaluating the user, for which customized remediation materials will be selected or determined.

7) Regarding the argument directed towards the examiner's response of 12 October 2010 to applicant's remarks; "This is not taught or suggested in Siefert for at least the reason that such a hierarchy is not shown in Table 4.2." Table 4.2 enumerates in hierarchical manner levels of external conditions which can influence the learning process for each class of learning objective, and further Siefert column 8 lines 20-32 discloses assessment in a hierarchical fashion and cites examples.

The examiner stands on the fact that all limitations are taught by Siefert and that the applicant has failed to show a limitation foreign to the art of reference. The request does not place the application in condition of allowance.